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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,510	06/27/2003	Gerard L. Seidl	0813-000017	9293
27572	7590	09/20/2005	EXAMINER	
HARNESS, DICKY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			HEPPERLE, STEPHEN M	
			ART UNIT	PAPER NUMBER
			3753	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/608,510	Applicant(s) SEIDL, GERARD L.	
	Examiner Stephen M. Hepperle	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-20 is/are rejected.
- 7) ☐ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 20 is a method claim, but depends from an apparatus claim. It is assumed the dependency is a typo; that the claim should properly depend from claim 18.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 9, and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Atkinson. Atkinson shows a bidirectional vent valve where flow in both directions goes through slit 24 or 40. The entire valve 16 or 36 is flexible, and is formed at its end (where the slit is) as a curved dome. Regarding claims 9 and 11-12, note elongated bodies 62, 48, either of which is seen as an elongated body and the other is seen as the protective device of claims 11-12.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkinson. It would have been obvious to form of a material or wall thickness so that it opens in response to any pressure within the capability of the materials, including the pressures recited, as a matter of extending the valve's usefulness.

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Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Atkinson in view of Izydorek et al. Izydorek shows a resilient check valve 302 (Fig. 15 and col. 9, line 30) made of flourosilicon. It would have been obvious to make the Atkinson valve of known flexible plastics such as flourosilicon as taught by Izydorek because it is known to make valves of flourosilicon. See also col. 2, line 56 to col. 3, line 10 of Atkinson.

Claims 1 and 9 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Kallenbach in view of Atkinson. Kallenbach shows a flexible domed check valve with slits 50 that will open to admit water into passage 20, located in an elongated housing 24. An overpressure situation causes the valve back our (Fig. 2A) to allow venting on the outside of the flexible member. It would have been obvious to replace the Kallenbach valve with the Atkinson member so that the valve need not back out to vent overpressure.

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davison in view of Atkinson. Davison shows a transmission vent including two separate valves to provide venting in both directions. It would have been obvious to replace the two separate valves with a single Atkinson valve because Atkinson allows vented flow in either direction in a far simpler device.

Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tupper in view of Atkinson. Tupper shows a bidirectional vent valve for an automotive fuel cap. It would

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have been obvious to replace the Tupper valve and spring with the Atkinson valve to eliminate the need for a separate spring (Atkinson col. 1, lines 37-43).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Baclae shows another bidirectional vent valve for a transmission.

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection. Arguments with respect to Atkinson as non analogous art are moot where Atkinson is applied as anticipatory. With respect to claims 14-20, Atkinson is disclosed as useful in both squeeze bottles and pumps (col. 5, lines 17-35), which is seen as illustrating a wide range of utility for Atkinson. Furthermore, the valve is classified as a general bidirectional valve and thus would have been available to the general practitioner in the art. It would have been unnecessarily restrictive for one of ordinary skill in the transmission vent valve art to ignore any valve not used specifically to vent a transmission.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Hepperle whose telephone number is 571-272-4913. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on 571-272-4930. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Stephen M. Hepperle
Primary Examiner
Art Unit 3753

SMH